

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAINTERS DISTRICT COUNCIL
NO. 2, *et al.*

Plaintiffs,

vs.

TRIAD PAINTING, INC.,
et al.

Defendants.

Cause No. 4:12-cv-2382 HEA

MEMORANDUM AND ORDER FOR PARTIAL DEFAULT JUDGMENT

This matter is before the Court on Plaintiffs' Motion for Partial Default Judgment against Defendants Triad Painting, Inc., Triad Service, Inc. and Sandra K. Geerling (hereinafter, "Defendants"). Plaintiffs filed this action on December 27, 2012 under the Employee Retirement Security Act, 29 U.S.C. §§ 1132 and 1145, and the Labor Management Relations Act, 29 U.S.C. § 185. The Complaint alleges Defendants have failed to make accounting and to fully pay several employee benefit funds and contributions due under the collective bargaining agreement between Defendants and its employees' union. Plaintiffs are the union and the trustees, sponsors and/or fiduciaries of the various funds.

The Clerk of Court entered an order of default against the Defendants on February 6 and 12, 2013. [Doc. #11, 12, 14].

On September 23, 2013, Plaintiffs filed a Motion seeking a partial default judgment requiring Defendants to pay \$21,288.76 in delinquent fringe benefit contributions, dues and deductions, liquidated damages and attorney's fees and to submit to the Plaintiffs' attorney for

review and copying its books, records and reports showing Defendants' indebtedness to the Funds in question for the period of September 1, 2010, through the date of this Order.

When the Clerk of Court has entered default against a defendant, the "allegations of the complaint except as to the amount of damages are taken as true." Mueller v. Jones, No. 2:08CV16 JCH, 2009 WL 500837, at *1 n.2 (E.D. Mo. Feb. 27, 2009) (quoting Brown v. Kenron Aluminum & Glass Corp., 477 F.2d 526, 531 (8th Cir. 1973)). Accordingly, in deciding the present motion for default judgment, the Court accepts as true the factual allegations contained in the Plaintiffs' Complaint together with those affidavits presented in the Plaintiffs' Motion and Memorandum in Support as they relate to the Plaintiffs' damages.

Based on those allegations and affidavits, Plaintiffs are entitled to the relief requested.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion for Partial Default Judgment [Doc. #15-16] is **GRANTED**. Plaintiffs are awarded delinquent fringe benefit contributions, dues and deductions, liquidated damages and attorney's fees against all Defendants in the amount of \$21,288.76.

IT IS FURTHER ORDERED that Defendants shall submit the documentation requested to Plaintiffs' attorney, in full, no later than **October 28, 2013**. Failure to comply with this Order may result in the imposition of sanctions.
